

DECISION



118365
205/21806
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548
21806

FILE: B-205542

DATE: May 11, 1982

MATTER OF: Pacific Drilling, Inc.

DIGEST:

Protest that sole-source procurement was improper is untimely when filed more than 10 working days after protester learned that agency was negotiating with awardee only and was not considering protester.

Pacific Drilling, Inc. (Pacific), protests the Department of the Navy sole-source procurement from Geo-Engineering and Testing, Inc. (Geo), of water well drilling on the island of Yap, Trust Territory of the Pacific Islands.

We dismiss the protest as untimely.

The Navy held negotiations with Geo between October 1 and October 20, 1981, and awarded the contract on October 21. The Navy states that on October 22, 1981, a representative of Pacific met with the Navy to express interest in competing for the contract and was told that the contract had been awarded to Geo on the previous day. The Navy argues that since Pacific's protest was not filed until November 19, 1981, more than 10 working days later, it is untimely under section 21.2(b)(2) of our Bid Protest Procedures, 4 C.F.R. part 21 (1981).

Pacific's representative at the meeting states that he does not remember the Navy representative saying that the contract had been awarded, but only that negotiations were being held with Geo for the well drilling contract. The protester goes on to say that "[m]ost importantly though, no writing was given to the protester regarding award of the contract." Pacific argues that its protest is timely because it protested within 10 working days of November 12, 1981, the date that it had written notice of the award.

Finally, Pacific argues that, even if its protest is found to be untimely, it should be considered under the "good cause" exception of our Procedures, 4 C.F.R. § 21.2(c), because the oral nature of the meeting makes it unclear whether the protester was notified of the award, the procurement violations were gross, and the protester is a small business without the resources to contest the action of a Federal agency.

We find that the protest is untimely based on Pacific's version of the October 22 meeting. The essence of Pacific's protest is that it was improperly excluded from competing for the contract. Therefore, once Pacific knew that negotiations were being conducted with Geo and that it was being excluded, it knew the grounds of its protest and was required to protest within 10 working days. The written notification of award added nothing relevant to Pacific's knowledge.

Concerning Pacific's argument that we should consider the protest under our good-cause exception, good cause refers to some compelling reason beyond the protester's control which prevents the filing of a timely protest. Policy Research Incorporated, B-200386, March 5, 1981, 81-1 CPD 172. None of the reasons mentioned by the protester fall into this category.

Harry R. Van Cleve
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Acting General Counsel